

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DE'MARKUS ANTOINE WILLIAMS,

Case No. 2:18-cv-01315-MMD-PAL

Plaintiff,

ORDER

BOBBY DEWAYNE HENDRIX,

(Mot WD Atty – ECF No. 50)

Defendant.

12 This matter is before the court on attorney Joseph Gutierrez, Steven Knauss, and Jason
13 Maier's Motion to Withdraw as Counsel of Record and Removal from CM/ECF Service List
14 (ECF No. 50). The motion represents that due to a lack of continued communication and
15 cooperation, counsel is unable to continue to represent plaintiff. The law firm therefore seeks
16 leave to withdraw as counsel of record.

17 Plaintiff's counsel filed an emergency motion to stay discovery until after pending motions
18 were decided regarding the admissibility of certain evidence. Defendant opposed the motion
19 indicating plaintiff's written discovery responses were overdue and plaintiff's counsel had advised
20 he had not been in recent communication with his client. At a hearing conducted December 18,
21 2018 on plaintiff's emergency motion for a stay of discovery counsel for plaintiff advised the court
22 that his client had finally responded to multiple requests to keep in communication and cooperate
23 in responding to overdue discovery served by defendant. He expected his client to come into the
24 office the following day to finalize, sign and verify written discovery responses.

25 The declaration supporting the motion to withdraw advises that the office has attempted to
26 contact plaintiff by telephone and email numerous times, appointments were scheduled for the
27 plaintiff to come into the office to finalize discovery responses on November 19, 2018, and
28 December 18, 2018, but plaintiff did not keep the appointments. Numerous subsequent attempts

1 were made to reach plaintiff whose phone number had changed. Plaintiff did not provide his new
2 phone number although he was told that it was required because his discovery responses were
3 overdue and contact with counsel was imperative.

4 On December 14, 2018, defendant filed a motion to compel plaintiff to respond to overdue
5 discovery requests. The court's discovery plan and scheduling order (ECF No. 16) established a
6 January 16, 2019 deadline for completing discovery, with a February 15, 2019 deadline for filing
7 dispositive motions. Although the court partially granted plaintiff's emergency motion by staying
8 expert disclosures and expert discovery until after decision of the motions seeking evidentiary
9 rulings from the district judge, the court required the parties to complete fact discovery by the
10 existing January 16, 2019 discovery cutoff.

11 Plaintiff's failure to communicate with counsel and cooperate in providing discovery is an
12 abusive litigation practice which is wasting judicial and party resources and interfering with timely
13 completion of discovery and resolution of this case on its merits. **Plaintiff is warned that**
14 **continued failure to participate in discovery, prosecute this action and comply with the**
15 **court's orders will result in a recommendation to the district judge that his case be dismissed,**
16 **and may result in monetary and/or other sanctions.**

17 Having reviewed and considered the matter, and for good cause shown,

18 **IT IS ORDERED:**

- 19 1. The law firm's Motion to Withdraw (ECF No. 50) is **GRANTED**.
- 20 2. The plaintiff shall have until **January 28, 2019** in which to retain substitute counsel
21 who shall make an appearance in accordance with the requirements of the Local Rules
22 of Practice or file a notice with the court that he will be appearing in this matter *pro se*,
23 that is representing himself.
- 24 3. Plaintiff's failure to timely comply with this order by either obtaining substitute counsel
25 or filing a notice that he will be appearing in this matter *pro se* may result in the
26 imposition of sanctions, which may include a recommendation to the District Judge
27 that plaintiff's complaint be dismissed for failure to prosecute. *See* Fed. R. Civ. P.
28 41(b).

1 4. The Clerk of the Court shall serve the plaintiff with a copy of this order at his last
2 known address:

3 De'Markus Antione Williams
4 2110 North Los Feliz Street, Apt. 1073
5 Las Vegas, NV 89156

6 DATED this 28th day of December 2018.

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8 PEGGY A. LEEN
9 UNITED STATES MAGISTRATE JUDGE

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